

AMENDED IN SENATE MARCH 30, 2006

SENATE BILL

No. 1829

Introduced by Senator Lowenthal

February 24, 2006

~~An act to amend Section 25534.1 of, and to add Section 25536.6 to, the Health and Safety Code, relating to hazardous materials. An act to add Section 39619.8 to, and repeal Section 40720 of, the Health and Safety Code, relating to air pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1829, as amended, Lowenthal. ~~Hazardous materials: accidental releases: ambient air. Marine terminals: air emissions.~~

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires each marine terminal in the state to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to load or unload at the terminal, and charges the applicable district with enforcing the requirement, as provided.

This bill, instead, would require each marine terminal to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to enter the terminal or for more than 30 minutes per transaction, as defined, from the first point of entry into the marine terminal until the time the truck has passed through the

final exit gate. A violation would be subject to a \$250 fine. Any owner or operator of a marine terminal or port, or any agent thereof, who acts to avoid or circumvent these requirements would be subject to a \$750 fine. The bill would require the state board to monitor and enforce these provisions. The bill would specify that the owner or operator of a marine terminal does not violate the provision prohibiting trucks from idling or queuing for more than 30 minutes while waiting to enter the gate into the marine terminal or for more than 30 minutes per transaction, if the delay is caused by specified events. Because this bill would create new crimes, this bill would impose a state-mandated local program.

~~(1) Existing law provides that the program for the prevention of accidental releases of regulated substances adopted by the Environmental Protection Agency pursuant to the Clean Air Act is the accidental release prevention program for the state. The term “regulated substance” is defined for those purposes as a substance listed in specified federal regulations and criteria. The Office of Emergency Services is required to determine which of those extremely hazardous substances meet those criteria or pose a regulated substances accident risk. Existing law requires a stationary source to submit a Risk Management Plan (RMP) to the administering agency, based upon the likelihood of a regulated substances accident risk.~~

~~This bill would require an administering agency that is an air pollution control district or air quality management district, after making specified findings, to require an owner or operator of a facility handling regulated substances that have the potential to vent into the atmosphere through a pressure relief valve, except as specified, to use methods, techniques, structures, or equipment that are capable of preventing the escape of regulated substances into the ambient air.~~

~~(2) Existing law requires that each RMP prepared pursuant to the above provision give consideration to the proximity of the facility to schools, among other facilities. The term “school” is defined for these purposes as any school used for the purpose of the education of more than 12 children in kindergarten or grades 1 to 12, inclusive. A knowing violation of those requirements is a crime.~~

~~This bill would revise the definition of “school” for these purposes to include schools of more than 6 children in kindergarten or grades 1 to 12, inclusive.~~

~~Because a violation of those requirements would be a crime, and because the bill would impose new duties upon local administering agencies, the bill would impose a state-mandated local program.~~

~~(3)–~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 39619.8 is added to the Health and
2 Safety Code, to read:

3 39619.8. (a) Each marine terminal in the state shall operate
4 in a manner that does not cause trucks to idle or queue for more
5 than 30 minutes while waiting to enter the gate into the marine
6 terminal, and that does not cause trucks to idle or queue for more
7 than 30 minutes per transaction, as defined in subdivision (i),
8 from the first point of entry into the marine terminal until the
9 time the truck has passed through the final exit gate.

10 (b) Any owner or operator of a marine terminal that operates
11 in violation of subdivision (a) is subject to a fine of two hundred
12 fifty dollars (\$250) per vehicle per violation.

13 (c) Any owner or operator of a marine terminal or port, or any
14 agent thereof, who takes any action intended to avoid or
15 circumvent the requirements of subdivision (a) or to avoid or
16 circumvent the reduction of emissions of particulate matter from
17 idling or queuing trucks is subject to a fine of seven hundred fifty
18 dollars (\$750) per vehicle per violation, including, but not
19 limited to, any of the following actions:

20 (1) Diverting an idling or queuing truck to area freeways or
21 alternate staging areas, including, but not limited to, requiring a
22 truck to idle or queue inside the gate of a marine terminal.

23 (2) Requiring or directing a truckdriver to turn on and off an
24 engine on a truck while that truck is idling or queuing.

1 (3) *Modifying or falsifying gate entry or exit times, including,*
2 *but not limited to, issuing a second gate entry time.*

3 (d) *The owner or operator of a marine terminal does not*
4 *violate this section by causing a truck to idle or queue for more*
5 *than 30 minutes if the delay is caused by acts of God, strikes, a*
6 *federal customs inspection, or declared state and federal*
7 *emergencies, or if the state board finds that an unavoidable or*
8 *unforeseeable event caused a truck to idle or queue and that the*
9 *terminal is in good faith compliance with this section.*

10 (e) *Failure to pay a fine imposed pursuant to subdivision (b)*
11 *or (c) shall constitute a violation of Article 3 (commencing with*
12 *Section 42400) of Chapter 4 of Part 4.*

13 (f) *Any action taken by the marine terminal to assess, or seek*
14 *reimbursement from, the driver or owner of a truck for a*
15 *violation of this section shall constitute a violation of Article 3*
16 *(commencing with Section 42400) of Chapter 4 of Part 4.*

17 (g) *Marine terminals in the state shall be monitored by the*
18 *state board to ensure compliance with this subdivision. The state*
19 *board shall determine the necessary level of monitoring and*
20 *enforcement commensurate with the level of the truck idling or*
21 *queuing problem existing at each marine terminal.*

22 (h) *Citations for violations of this section shall be issued by*
23 *the state board, and shall include the truck license plate number*
24 *or other unique identifier, which may include, but is not limited*
25 *to, the cargo container number, the name of the marine terminal*
26 *and port at which the violation occurred, and the date and time*
27 *of the violation. Each marine terminal shall provide to the*
28 *district that has jurisdiction over that terminal, to the state*
29 *board, and local or state law enforcement agencies, data on gate*
30 *entry and exit times, upon request.*

31 (i) *For the purposes of this section, the following definitions*
32 *apply:*

33 (1) *“Marine terminal” means a facility that meets all of the*
34 *following criteria:*

35 (A) *Is located at a bay or harbor.*

36 (B) *Is primarily used for loading or unloading containerized*
37 *cargo onto or off of a ship or marine vessel.*

38 (C) *Contains one or more piers, wharves, slips, berths, or*
39 *quays.*

1 (D) Is located at a port that processes 100,000 or more
2 containers (20-foot equivalent units (TEUs)) annually.

3 (2) “Transaction” means any of the following:

4 (A) Pick up of a loaded container, either grounded or wheeled.

5 (B) Pick up of an empty container, either grounded or
6 wheeled.

7 (C) Delivery of a loaded container.

8 (D) Delivery of an empty container.

9 (E) Equipment repair or maintenance.

10 SEC. 2. Section 40720 of the Health and Safety Code is
11 repealed.

12 ~~40720. (a) Each marine terminal in the state shall operate in~~
13 ~~a manner that does not cause trucks to idle or queue for more~~
14 ~~than 30 minutes while waiting to enter the gate into the marine~~
15 ~~terminal.~~

16 ~~(1) Any owner or operator of a marine terminal that operates~~
17 ~~in violation of this subdivision is subject to a two hundred fifty~~
18 ~~dollar (\$250) fine per vehicle per violation.~~

19 ~~(2) Marine terminals in the state shall be monitored by the~~
20 ~~district with jurisdiction over that terminal to ensure compliance~~
21 ~~with this subdivision.~~

22 ~~(3) Citations for violations of this subdivision shall be issued~~
23 ~~by the applicable district, and shall include the truck license plate~~
24 ~~number or other unique identifier, which may include, but is not~~
25 ~~limited to, the cargo container number, the name of the marine~~
26 ~~terminal and port at which the violation occurred, and the date~~
27 ~~and time of the violation.~~

28 ~~(4) Any action taken by the marine terminal to assess, or seek~~
29 ~~reimbursement from, the driver or owner of a truck for a~~
30 ~~violation of this subdivision shall constitute a violation of Article~~
31 ~~3 (commencing with Section 42400) of Chapter 4 of Part 4.~~

32 ~~(5) Any owner or operator of a marine terminal or port, or any~~
33 ~~agent thereof, who takes any action intended to avoid or~~
34 ~~circumvent the requirements of this subdivision or to avoid or~~
35 ~~circumvent the reduction of emissions of particulate matter from~~
36 ~~idling or queuing trucks is subject to a seven hundred fifty dollar~~
37 ~~(\$750) fine per vehicle per violation, including, but not limited~~
38 ~~to, either of the following actions:~~

1 ~~(A) Diverting an idling or queuing truck to area freeways or~~
2 ~~alternate staging areas, including, but not limited to, requiring a~~
3 ~~truck to idle or queue inside the gate of a marine terminal.~~

4 ~~(B) Requiring or directing a truckdriver to turn on and off an~~
5 ~~engine on a truck while that truck is idling or queuing.~~

6 ~~(6) The owner or operator of a marine terminal does not~~
7 ~~violate this subdivision by causing a truck to idle or queue for~~
8 ~~more than 30 minutes while waiting to enter the gate into the~~
9 ~~marine terminal, if the delay is caused by acts of God, strikes, or~~
10 ~~declared state and federal emergencies, or if the district finds that~~
11 ~~an unavoidable or unforeseeable event caused a truck to idle or~~
12 ~~queue and that the terminal is in good faith compliance with this~~
13 ~~section.~~

14 ~~(7) Failure to pay a fine imposed pursuant to paragraph (1) or~~
15 ~~(5) shall constitute a violation of Article 3 (commencing with~~
16 ~~Section 42400) of Chapter 4 of Part 4.~~

17 ~~(b) (1) Subdivision (a) does not apply to any marine terminal~~
18 ~~that provides, as determined by the district, two continuous hours~~
19 ~~of uninterrupted, fully staffed receiving and delivery gates two~~
20 ~~hours prior to and after, peak commuter hours each day, at least~~
21 ~~five days per week.~~

22 ~~(2) For the purposes of this subdivision, “peak commuter~~
23 ~~hours” shall be those hours determined by the district, in~~
24 ~~consultation with the owners and operators of the marine~~
25 ~~terminals within the jurisdiction of each district and any labor~~
26 ~~union that is represented at those marine terminals. The district~~
27 ~~shall notify the marine terminals of the final determination of the~~
28 ~~peak commuter hours.~~

29 ~~(c) Subdivision (a) does not apply to any marine terminal that~~
30 ~~operates fully staffed receiving and delivery gates for 65 hours,~~
31 ~~five days per week, if that marine terminal is located at a port~~
32 ~~that processes less than 3 million containers (20-foot equivalent~~
33 ~~units (TEUs)) annually.~~

34 ~~(d) Subdivision (a) does not apply to any marine terminal that~~
35 ~~operates fully staffed receiving and delivery gates for 70 hours,~~
36 ~~five days per week, if that marine terminal is located at a port~~
37 ~~that processes more than 3 million containers (20-foot equivalent~~
38 ~~units (TEUs)) annually.~~

1 ~~(e) The district shall determine the necessary level of~~
2 ~~monitoring and enforcement commensurate with the level of the~~
3 ~~truck idling or queuing problem existing within its jurisdiction.~~

4 ~~(f) For the purposes of this section, “marine terminal” means a~~
5 ~~facility that meets all of the following criteria:~~

6 ~~(1) Is located at a bay or harbor.~~

7 ~~(2) Is primarily used for loading or unloading containerized~~
8 ~~cargo onto or off of a ship or marine vessel.~~

9 ~~(3) Contains one or more of the following:~~

10 ~~(A) Piers.~~

11 ~~(B) Wharves.~~

12 ~~(C) Slips.~~

13 ~~(D) Berths.~~

14 ~~(E) Quays.~~

15 ~~(4) Is located at a port that processes 100,000 or more~~
16 ~~containers (20-foot equivalent units (TEUs)) annually.~~

17 ~~(g) Notwithstanding paragraph (1) of subdivision (a), if a~~
18 ~~marine terminal implements a scheduling or appointment system~~
19 ~~for trucks to enter the terminal, the terminal shall be subject to a~~
20 ~~fine pursuant to subdivision (a) only for a truck that makes use of~~
21 ~~the system and that idles or queues for more than 30 minutes~~
22 ~~while waiting to enter the gate into the terminal, commencing~~
23 ~~from the start of the appointment or the time the truck arrives,~~
24 ~~whichever is later. The scheduling or appointment system shall~~
25 ~~meet all of the following requirements:~~

26 ~~(1) Provide appointments on a first-come-first-served basis.~~

27 ~~(2) Provide appointments that last at least 60 minutes and are~~
28 ~~continuously staggered throughout the day.~~

29 ~~(3) Not discriminate against any motor carrier that conducts~~
30 ~~transactions at the marine terminal in scheduling appointments.~~

31 ~~(4) Not interfere with a double transaction once inside the~~
32 ~~gate.~~

33 ~~(5) Not turn away or fine a motor carrier if that motor carrier~~
34 ~~misses an appointment.~~

35 *SEC. 3. No reimbursement is required by this act pursuant to*
36 *Section 6 of Article XIII B of the California Constitution because*
37 *the only costs that may be incurred by a local agency or school*
38 *district will be incurred because this act creates a new crime or*
39 *infraction, eliminates a crime or infraction, or changes the*
40 *penalty for a crime or infraction, within the meaning of Section*

1 *17556 of the Government Code, or changes the definition of a*
2 *crime within the meaning of Section 6 of Article XIII B of the*
3 *California Constitution.*

4 ~~SECTION 1. Section 25534.1 of the Health and Safety Code~~
5 ~~is amended to read:~~

6 ~~25534.1. Each RMP required to be prepared pursuant to this~~
7 ~~article shall give consideration to the proximity of the facility or~~
8 ~~proposed facility to populations located in schools, residential~~
9 ~~areas, general acute care hospitals, long-term health care~~
10 ~~facilities, and child day care facilities. For purposes of this~~
11 ~~section, “general acute care hospital” has the meaning provided~~
12 ~~by subdivision (a) of Section 1250, “long-term health care~~
13 ~~facility” has the meaning provided by subdivision (a) of Section~~
14 ~~1418, and “child day care facility” has the meaning provided by~~
15 ~~Section 1596.750. “School” means any school used for the~~
16 ~~purpose of the education of more than six children in~~
17 ~~kindergarten or any of grades 1 to 12, inclusive.~~

18 ~~SEC. 2. Section 25536.6 is added to the Health and Safety~~
19 ~~Code, to read:~~

20 ~~25536.6. (a) Except as provided in subdivision (c), an~~
21 ~~administering agency that is a district, as defined in Section~~
22 ~~39025, shall require an owner or operator, as described in~~
23 ~~subdivision (b), to use methods, techniques, structures, or~~
24 ~~equipment that are capable of preventing the escape of regulated~~
25 ~~substances into the ambient air, if the district makes both of the~~
26 ~~following findings:~~

27 ~~(1) There is a significant likelihood that an accidental release~~
28 ~~of a regulated substance could occur during handling at the~~
29 ~~facility.~~

30 ~~(2) Emergency response measures that would be implemented~~
31 ~~in response to the accidental release and technologies that have~~
32 ~~been installed at the facility to mitigate its effects are likely to~~
33 ~~fail or are not capable, under pessimistic meteorological~~
34 ~~conditions, of preventing the dispersion of released regulated~~
35 ~~substances offsite.~~

36 ~~(b) “Owner or operator,” for purposes of this section, means~~
37 ~~an owner or operator of a facility handling regulated substances~~
38 ~~that have the potential to vent into the atmosphere through a~~
39 ~~pressure relief valve.~~

1 ~~(e) Subdivision (a) does not apply to swimming pools, spas,~~
2 ~~and refrigeration units.~~

3 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
4 ~~Section 6 of Article XIII B of the California Constitution because~~
5 ~~the only costs that may be incurred by a local agency or school~~
6 ~~district will be incurred because this act creates a new crime or~~
7 ~~infraction, eliminates a crime or infraction, or changes the~~
8 ~~penalty for a crime or infraction, within the meaning of Section~~
9 ~~17556 of the Government Code, or changes the definition of a~~
10 ~~crime within the meaning of Section 6 of Article XIII B of the~~
11 ~~California Constitution.~~